



STATE OF DELAWARE

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May 22, 2018

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Kevin Neilson, Regulatory Policy Administrator *KAN*

SUBJECT: IN THE MATTER OF THE JOINT APPLICATION OF MLN TOPCO LTD., MITEL NETWORKS CORPORATION, AND MITEL CLOUD SERVICES, INC. F/K/A MITEL NET SOLUTIONS, INC. FOR APPROVAL OF THE TRANSFER OF CONTROL OF MITEL CLOUD SERVICES, INC. TO MLN TOPCO LTD.
(FILED MAY 17, 2018) - PSC DOCKET NO. 18-0338

Application

On May 17, 2018, MLN TopCo Ltd. ("TopCo" or "Transferee"), Mitel Networks Corporation ("Mitel" or "Transferor"); and Mitel Cloud Services, Inc. ("MCSI" or "Licensee" and collectively, "Applicants") filed an application ("Application") seeking Delaware Public Service Commission (the "Commission") approval for a transfer of control of MCSI to Transferee (the "Transaction").¹

Applicants

¹ The Applicants also filed an application seeking approval of financing arrangements associated with the Transaction; see PSC Docket No. 18-0339. Staff is also presenting a memo concerning the financing arrangements approval requested in that docket.

Mitel Networks Corporation

Mitel, is a leading global provider of cloud and on-site communications and collaboration solutions for business customers serving more than 70 million end users around the world. Mitel is headquartered in Ottawa, Canada, with offices, partners and resellers worldwide.

Mitel Cloud Services, Inc.

MCSI is a Texas corporation and a wholly owned indirect subsidiary of Mitel. MCSI resells local communications services, domestic and international long-distance services, calling card services, 800 services, dedicated data services, internet, DSL, MPLS services and web voice and videoconferencing, disaster recovery solutions, and network monitoring and management. In Delaware, MCSI was approved to by the Commission to provide in-state long distance services in Docket No. 02-269 and competitive local exchange services in Docket No. 08-386.

MLN TopCo Ltd.

TopCo is a Cayman Islands exempted company formed for the purposes of implementing the Transaction. TopCo is a wholly owned subsidiary of Searchlight II MLN, L.P., a Cayman Islands exempted limited partnership and master aggregator of an investor group led by funds affiliated with Searchlight Capital Partners, L.P. (“Searchlight”).

Transaction

Pursuant to an Arrangement Agreement (the “Agreement”), dated as of April 23, 2018, by and between Mitel, MLN AcquisitionCo ULC (“MLN”),² and TopCo, MLN will acquire all of the issued and outstanding common shares in the capital of Mitel. Mitel and MLN will amalgamate under Canadian law to form a new combined entity, Mitel Networks ULC (“New Mitel”), a British Columbia unlimited liability company. The shares in Mitel’s U.S. subsidiaries will be transferred from New Mitel to MLN US HoldCo LLC, a Delaware limited liability company, through a series of steps. As a result, at the closing of the Transaction, Licensee will become a wholly owned indirect subsidiary of TopCo through a number of intermediate holding companies.

Public Interest

² MLN AcquisitionCo ULC is an unlimited liability company organized under the laws of British Columbia, Canada, formed for purposes of effectuating the Transaction. As described herein, MLN will be amalgamated into New Mitel and will have no separate existence following the completion of the Transaction.

The Applicants assert that the Transaction is in the public interest and will provide MCSI with access to Transferee and the Searchlight-managed investor group's financial and operational expertise, permitting MCSI to continue to provide robust unified communications solutions to its customers and to better compete in the telecommunications marketplace. Transferee and its affiliates will seek to build on MCSI's existing assets, support investments in new infrastructure and continue to offer innovative and high-quality services to existing customers. Applicants further state that the proposed Transaction will have no adverse impact on customers and will not alter the manner of service delivery or billing. Transferee further intends that MCSI's existing management team will remain in place and that MCSI's managerial, technical and operational standards will be maintained. MCSI will continue to comply with existing contracts and tariffs, as applicable, subject to change in the ordinary course of business and in accordance with applicable law.

Staff Recommendation

Applications seeking transfers of control approvals by large multi-state resellers of competitive intrastate telecommunications services technically lie within the provisions of 26 *Del. C.* § 215 because the companies are deemed to be public utilities. The Applicants have represented that the Transaction is in accordance with law, for a proper purpose, and consistent with the public interest. The Commission has previously allowed such applications to become effective by statutory approval without Commission action. The result appears appropriate under these circumstances. Staff, therefore, recommends that the Commission not act on this Application. Under 26 *Del. C.* § 215(d), the effect will be that the Application is deemed to be approved by the Commission. Staff will also acquire verification from the Applicants that the proposed Transaction has been completed.